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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,564	09/04/2001	Nida Abdul-Ghani Nassief		8476

7590 07/11/2006

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Naperville, IL 60565

EXAMINER

LEWIS, PATRICK T

ART UNIT PAPER NUMBER

1623

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/944,564	<b>Applicant(s)</b> NASSIEF, NIDA ABDUL-GHANI	
	<b>Examiner</b> Patrick T. Lewis	<b>Art Unit</b> 1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 25-34 is/are pending in the application.
- 4a) Of the above claim(s) 28-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I in the reply filed on August 4, 2004 is acknowledged. The requirement was made FINAL in the Office Action dated November 21, 2005.
2. Claims 28-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 4, 2004.

### ***Information Disclosure Statement***

3. The listing or citing of references in applicant's response is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office. Therefore, unless the references have been cited by the examiner on form PTO-892 (i.e. Material Y Metodos), they have not been considered.

### ***Applicant's Response Dated April 12, 2006***

4. Claims 25-34 are pending. Claims 28-34 are withdrawn from further consideration as being drawn to a nonelected invention. An action on the merits of claims 25-27 is contained herein below.

5. The rejection of claims 25-27 under 35 U.S.C. 102(b) as being anticipated by Sanchez Palacios A. et al. Allergol Immunopathos (Madr) (1992), Vol. 20 (1), pages 35-39 (Sanchez) is maintained for the reasons of record as set forth in the Office Action dated November 21, 2005.

***Rejections of Record Set Forth in the Office Action Dated November 21, 2005***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanchez Palacios A. et al. Allergol Immunopathos (Madr), (1992), Vol. 20 (1), pages 35-39 (Sanchez).

Sanchez discloses the use of immunoferon (AM3) in the treatment of childhood infectious respiratory pathology. To assess the immunoclinical effectiveness of a biological response immunomodulator, glycoposphopeptide (AM3) was administered to 20 children with asthmatic bronchitis. The children received 2 envelopes (1 g) daily for 4 months. The clinical and immunological parameters assessed were: cough, dyspnea, expectoration, frequency and intensity of the bronchospasm, time of administration of the symptomatic medication, and the delayed cutaneous cells response by means of the intradermal reaction of 5 antigens. Immunoferon reduced the symptoms, the intensity and frequency of the bronchospasm, and the symptomatic medication.

8. Applicant's arguments filed April 12, 2006 have been fully considered but they are not persuasive. Applicant argues that Sanchez is referring to childhood infectious respiratory pathology (asthmatic bronchitis) which is not bronchial asthma which is allergic or atopic.

Applicant's arguments have been considered but are not deemed germane. Sanchez teaches the use of glycoposphopeptide for treating asthmatic bronchitis. It was well known in the art at the time of the invention that asthmatic bronchitis is a condition in which the airways in the lungs are obstructed due to both persistent asthma and bronchitis. Thus, the patient population treated by the method of Sanchez embraces asthma patients and therefore meets the limitations of the instantly claimed invention.

### ***Conclusion***

9. Claims 25-34 are pending. Claims 28-34 are drawn to a nonelected invention. Claims 25-27 are rejected. No claims are allowed.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

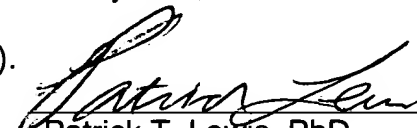
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick T. Lewis whose telephone number is 571-272-0655. The examiner can normally be reached on Monday - Friday 10 am to 3 pm (Maxi Flex).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia A. Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Patrick T. Lewis, PhD  
Primary Examiner  
Art Unit 1623